

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

LORRAINE M. WILLIAMS,)	
)	
Plaintiff)	
)	
v.)	Civil No. 99-0030-B
)	
HEALTHREACH NETWORK,)	
)	
Defendant)	

ORDER

Plaintiff moves to amend her Complaint to add a claim under the Family and Medical Leave Act, 29 U.S.C. §§ 2601-2654. Plaintiff asserts that the availability of the claim was discovered during depositions of Defendants' employees that occurred on July 22, 1999. The Motion to Amend was filed with the Court on August 16, 1999, the last day of the discovery period as enlarged by joint motion of the parties.

The Motion to Amend Complaint is hereby DENIED. Defendant suggests that Plaintiff was indeed aware of the change in the "action plan" prior to the July depositions. Specifically, it notes that the information was included in Defendant's submission to the Maine Human Rights Commission, as well as Plaintiff's own response to the investigator's report. Defendant also asserts that Plaintiff should certainly have known the action plan was not in effect when she returned to work.

Most notably, Plaintiff's own Complaint alleges that "[o]n January 21, 1997, five of the Plaintiff's supervisors met to discuss her job performance and to decide what action could be taken to determine her level of competency." Comp. at ¶ 28. She further alleges

that they determined at that meeting to evaluate her performance on her first day of work, and to terminate her if it did not meet expectations. *Id.* Not only was Plaintiff aware of this meeting at the time she wrote her Complaint, she was aware of it “a few days before she was to return to work,” *id.* at ¶ 29, belying her present assertion that she would have taken another month of leave had she known she would not be eased back into her job.

Plaintiff’s reply to Defendant’s objection to the Motion to Amend does not directly address Defendant’s assertions regarding Plaintiff’s knowledge of the January, 1997 meeting. Rather, Plaintiff relies on general arguments concerning whether Defendant timely responded to Plaintiff’s discovery requests. These arguments do nothing to support Plaintiff’s request to add a brand new claim to this action after discovery has closed, a summary judgment motion has been filed, and the matter has been placed on the November, 1997 trial list.

Conclusion

The Motion to Amend Complaint is hereby DENIED.

SO ORDERED.

Eugene W. Beaulieu
U.S. Magistrate Judge

Dated on: September 23, 1999